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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

'07 MJ 2987

UNITED STATES OF AMERICA, Plaintiff, v. **Heriberto APODACA-Sanchez** Defendant.	Magistrate Case No. COMPLAINT FOR VIOLATION OF Title 8, U.S.C., Section 1324(a)(2)(B)(iii)- Bringing in Illegal Alien(s) Without Presentation

The undersigned complainant being duly sworn states:

On or about **December 25, 2007**, within the Southern District of California, defendant **Heriberto APODACA-Sanchez** with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Petra DOMINGUEZ-Vazquez, Ana Lilia TEPI-Dominguez, and Pedro ITUBIRDE-Gallardo**, had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said aliens, and upon arrival did not bring and present said aliens immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Sara Esparagoza, U.S. Customs and Border Protection Enforcement Officer

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **27TH** DAY OF **DECEMBER**, 2007.

UNITED STATES MAGISTRATE JUDGE

CEM

PROBABLE CAUSE STATEMENT

The complainant states that **Petra DOMINGUEZ-Vazquez, Ana Lilia TEPI-Dominguez, and Pedro ITUBIRDE-Gallardo** are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial thereof by subpoena; and that they are material witnesses in relation to this criminal charge and should be held or admitted to bail as prescribed in Title 18, United States Code, Section 3144.

On December 25, 2007 at about 2225 hours, **Heriberto APODACA-Sanchez (Defendant)** applied for entry into the United States from Mexico through the San Ysidro Port of Entry as the driver and sole visible occupant of a green 1999 Volkswagen Jetta. Defendant presented a Department of State Border Crossing Card (Form DSP-150) bearing the name J Natividad Moncada-Ocampo as proof of admissibility to a Customs and Border Protection (CBP) Officer. Defendant gave the CBP Officer a negative Customs declaration and claimed ownership of the vehicle. The CBP Officer was alerted to a computer generated referral and subsequently escorted the vehicle and Defendant to secondary for further inspection.

In secondary, it was determined that Defendant was an imposter to the documented presented. Defendant was instructed to open the trunk of the vehicle and CBP Officers discovered three individuals concealed in the trunk area of the vehicle. Defendant and all concealed individuals admitted being citizens of Mexico with no entitlements to enter or reside in the United States. The concealed individuals are now identified as: **Petra DOMINGUEZ-Vazquez (MW1), Ana Lilia TEPI-Dominguez (MW2), and Pedro ITUBIRDE-Gallardo (MW3).**

During a videotaped proceeding, Defendant was advised of his Miranda Rights. Defendant acknowledged his rights and elected to answer questions without an attorney present. Defendant admitted knowledge of the smuggling act. Defendant admitted he presented an entry document not lawfully issued to him. Defendant admitted knowing aliens were concealed in the trunk of the vehicle. Defendant admitted he was to deliver the vehicle and aliens to the AM/PM store on Palm Avenue, off Interstate 5. Defendant admitted he was to be paid $300.00 (USD) per smuggled alien. Defendant stated he believed four undocumented aliens were concealed in the vehicle. Defendant admitted he was to receive $600.00 (USD) upon delivery of the vehicle and aliens. Defendant admitted he was to receive the rest of the money from a man know to him as "Juan" once he return to Tijuana, Mexico.

Separate videotaped interviews were conducted with Material Witnesses. All Material witnesses admitted being citizens of Mexico with no entitlements to enter or reside in the United States. MW1 and MW2 stated they were going to Queens, New York to visit a sick relative. MW1 and MW2 denied knowing how much they were going to be charged to be smuggled into the United States. MW3 stated he was going to pay $2000.00 (USD) to be smuggled into the United States. MW3 stated he was going to Los Angeles, California to seek employment.